

THE
PROCEEDINGS

AT THE

Sessions of the Peace

HELD AT

HICKS-HALL,

FOR THE

County of Middlesex,

Decemb. 5. 1681.

With His MAJESTIES Two ORDERS,
and Sir WILLIAM SMITH's SPEECH to the
Grand Jury, concerning putting the Laws in Execution against

Popish Recufants and Conventicles :

Together with his Discourse upon the Statute of the 3^d. of
Hen. 8. (herewith printed) concerning the Power of the
Justices of the Peace to Impannel

JURIES.

Printed and Published by the Order of the
said Justices.

L O N D O N :

Printed for Walter Davies in Amen-Corner, 1682.

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Midd. ff. *Ad general. Sessionem pacis Domini Regis tent. per Adjournament pro Com. Midd. apud Hicks-hall in St. John-street, in Com. prædict. die Lune, scil. Quinto die Decembris, Anno Regni Caroli Regis Secundi nunc Angliæ, &c. Tricesimo tertio.*

The Justices then assembled, directed Sir William Smith to speak to the Grand-Jury to some Points, which he did as followeth.

GENTLEMEN,

IT is not usual to give a Charge at this Sessions, but something I am to say to you; Sir George Jefferies is your Chair-man, but a Duty incumbent upon him, to be at another Place at this time, would not permit his Attendance upon this Service. I must confess when he first ingaged in it, I promis'd to relieve him, if at any time he was under a necessity of being absent, I am sorry there was any such at this time; It is very unhappy for you, and as unhappy for me; for you, because you might have been assisted by his great Abilities, and directed in those things, which possibly may be too hard for me; For me, because by my discourse I shall discover that weakness, which by my silence I might have concealed. But before I say any thing, I will recommend my self to you, by a Character which I hope will give me credit with you; I am an English-man, who in all the publick Administrations of my Life, never had any other design, but the Honour and Safety of the King, and the Peace and Prosperity of my Country, abstracted from all private Considerations of Profit or Advantage whatsoever. That I may prove this to you, I will acquaint you that I have had the Honour to Sit in two Parliaments, that in the year 1640. and this last Long Parliament from the beginning to the end of it; No question you have heard of Pensioners, I do declare before God and you, that I never received, nor any one for me, one Shilling from the King or Crown, or any Minister of State in Money, Place, Office, Imployment, or any other matter or thing whatsoever, directly or indirectly to this day. I have been a Justice of the Peace this Twenty years, I have been and am a Deputy-Lieutenant: And have been made use of in other publick Affairs, (none of Profit) but never made one Penny advantage by them or any of them: This methinks should

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perswade you to believe, that what I shall say to you, is intended for the Good and Welfare of my King and Country.

Gentlemen, A good Physitian when he comes to his Patient, endeavours to find out his Disease, before he applies himself to the Cure; if he doth otherwise, he rather practiseth to gain Skill, than to make use of what he hath. This Kingdom is at present under very sad Circumstances, God Almighty help us. Pray let us endeavour to find out the Cause, that a suitable remedy may be applied. I think I have it: We have lost a Jewel, a Jewel of an inestimable price in the Judgment of all Wise men; What do you think this? It is Government; I will describe it to you, because you may know it when you meet with it: It is where there be good Laws, and those duely executed; and where the Subjects have a reverence for, and a due esteem of their Prince. That we have good Laws, all those who understand them must confess; and if they will take pains to compare them with those of other Countries, will find they are the best in the World, the most equal, and therefore the most easie. Is it not then pity they should not be well executed; If the Laws are good, I am sure the Prince is better; they are but Just, he is both Just and Merciful; His Justice appears in all his Actions, and yet his Mercy is more eminent, for he hath forgiven his Fathers Enemies, as well as his own, witness the Act of Oblivion; he takes nothing from any man, doth not oppress the meanest of his Subjects, nor interpoeth his Authority to obstruct Justice. Should we not honour and esteem such a Prince? Should we not assist him, that he may live with Honour, at Ease, and be enabled to defend us from his and our Enemies? Should we not for our own sakes, endeavour to preserve his Life, and punish those who shall contrive designs against it? This ought to be done, it is our Duty, it is our Interest.

Gentlemen, I told you Government was a most pretious Jewel, without it a Kingdom is but a Wilderness or Forest of Wild Beasts, who prey upon each other. Where there is no Government, do you think a Poor man will walk bare-foot by a Shooe-makers Shop, and not take a pair of Shooes? Or go from a Cooks with an empty Belly? Or pass through *Lombard-Street*, and not supply his Pockets? Without Government mankind would live in *Statu Belli*; not that I am of Mr. *Hobbs* his Opinion, we were created so, but by known frailty and the Devils subtilty we are so; and therefore without Government and a due Subjection to Law, every man must stand upon his Guard, and keep a Garrison in his House to defend his Goods, and when he walks abroad, must maintain a Guard to defend his Person; and yet this will not make him safe neither, for his own Garrison and Guard may, if their Appetite or Interest leads them to it, betray him.

Gentlemen, God Almighty knew this when he created Man, and therefore gave him a Law by which he should live and govern himself, and printed it in his heart, called the Law of Nature, which is, That Man should reverence and adore God which gave him his Being, that he should honour his Parents, and those are both Natural and Civil: That he should live justly and peaceably with those of his own Kind, and this is truly called the Law of Nature. Is it not both natural and reasonable, that we should adore God who made us, and not Birds and Beasts, or the works of our own hands? Is it not natural to Honour our Parents, who gave us Life? and our Princes, who by
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their Care and Power preserve it? Is it not natural to live justly and peaceably with all men, and not injure them in their Lives and Estates, or good Names, by Violence, Fraud, or Perjury? This was not a State of War; for if man had minded and attended to this Law as he ought to have done, there would have been no Contentions or Quarrels, no nor Fears or Jealousies, which are the Devils Engines to Batter down the Peace of the World: But the Devil, that subtil Adversary of Mankind, was too hard for poor Man; he put a mist before his eyes, made him forget his Maker, neglect his Duty to his Parents, and filled him full of Ambition, and unruly Appetites, by which the World was grown to that height of Wickedness, that God swept them away by an universal Deluge, and only left *Noah* and his Family to replenish it, by whose Instructions and good example, the Law of Nature revived, and for some time duely executed amongst men; but at last the Devil, that subtil Serpent, crept into the Hearts of men, and stifled the Law of Nature, and brought the World into the old State of Ambition, Violence, Rapine, and all manner of Oppression. Yet infinite Goodness had still Compassion for man; and that that Law might be better seen and regarded, was pleased to write it in two Tables with his own Finger: This did prevail a while in the time of *Moses* and *Joshua*, and some of the Judges, only now and then the Devil would put in for his share, in the time of *Moses*, who was a very meek Prince, and governed the *Israelites* by God's immediate Direction; the Devil had filled *Corah* full of Ambition, which hurried him into a Rebellion, that cost him his Life: He confederated with some of the Princes and People, and gathered themselves together against *Moses* and *Aaron*, and said, You take too much upon you, seeing all the Congregation is Holy, and the Lord is amongst them, wherefore then lift you up your selves above the Congregation? This Rebellion you may observe, as all other Rebellions almost that I have heard of, began upon pretence of Religion and Liberty. The Congregation is Holy, and why lift you up your selves? Sovereignty is the design, and Godliness the Pretence, and the People are easily taken in a snare, for the appeal is usually made to them; that pleaseth, and cheats them of their Loyalty. Excellent Arbiters in Matters relating to Government, who the Crafty and Disloyal make use of, but the Wise and Prudent never trust. The *Israelites*, as I told you, lived in great observance to this Law, until they were corrupted by the *Canaanites*, and imbraced their senseless Idols, instead of the Ever-living God, who suffered the World to remain in sin and darkness for many years. At last God had compassion upon Man, made one Essay more to try if he could reclaim him, and sent his only Son, not only to save, but likewise to instruct, and by his Precepts to restore that Law, which man had lost. If you observe the Doctrine of our Blessed Saviour, it is no other than to explain and enforce the Practice of the Law of Nature. The Religion in our Saviour's dayes, was to be obedient to Princes, to do Justice, love Mercy, and walk humbly before God. To visit the Fatherless and Widdows in their affliction, and live unspotted from the World. His Precepts were Humility, Meekness, Patience, Temperance, Brotherly-kindness and Charity, and to do as we would be done unto, and all this is but the Law of Nature. I have read the Laws of other Countries as well as our own, and to my understanding, their Laws are no other, than the Law of Nature drawn out in length, with an Addition of Penalties to the Prohibitions, for the better enforcing Man's Duty and Obedience. And because this excellent Law should not again be lost, he was pleased to put it into a way of Practice, as the best means to preserve it,

it : He chose Twelve Apostles, who after Christ left the World, were inspired by the Holy Spirit, and great power given unto them. Then for the better, and more sure establishing of the Religion which their Master had taught them, sent Overseers, which they called *ἐπίσκοποι*, or Bishops, to several Parts and Places to propagate that Religion, and establish God's Church. But we do not find that these Bishops had any Superintendency or Supremacy one over another; and therefore it is to be admired from whence the Bishop of *Rome* derives his Supremacy, and with so much confidence justifie it. There is as little ground for his pretended Infallibility; for was not St. *Peter* himself reproved? which he would not have been if he had been infallible. Upon these two Pillars of Supremacy and Infallibility, the *Romish* Church is chiefly built; a very weak Foundation, upon which it is to be wondered that any wise or learned man can build his Faith. These Bishops in their several Places and Churches, appointed Methods for the decency of Divine Worship; and this Church-Government by Bishops, is brought down to us of *England* by a continued Succession; and these Methods which are called Ceremonies, and the Liturgy of our Church, which comprehends the Government of it, is not only directed by the Bishops, but hath the Sanction of a Parliament; so that it hath the Consent and Agreement both of the King and People: Which when I have seriously thought upon, raiseth my admiration, how any man can think himself hardly dealt with, when he is required to comply with that, to which he hath before agreed; or that he should think it reasonable, that separate Assemblies, or publick Conventicles, should be permitted, in opposition to the said established Government. I cannot understand it otherwise, but that those persons who frequent these Conventicles, and give themselves up to be ruled and directed by their Teachers, allow those Teachers both Infallibility and Supremacy; and not only so, but also a Legislative Power, to make what Orders they think fit, which is to make a Prince and a Pope in every Congregation. These publick Conventicles and separate Congregations well considered, will appear yet more unreasonable, for they weaken the Interest both of Church and State: The *Romish* Church is an united Body, and not to be withstood but by another united Body, where there is strength and truth, which must be the Church of *England*, which certainly comes the nearest to the Apostolick and Primitive Institution of Church-Government, of any Church in the World; and if the People were united and reconciled to this true *Protestant* Church, it was not possible that Popery should prevail here. Our Divisions give boldness to that common Enemy to make Attempts upon us. Besides, these publick Conventicles which proclaim our Divisions to the World, at the same time discover our weakness, and must cause a potent neighbour-Prince to cast his Eye upon us, who will not want the Suggestions of Ambition and Interest to try his Fortune here; and if he should, what can withstand him, we being thus divided? The Luxury and Security of *Asia* gave *Alexander* the great hopes of Conquest; he went thither with 40000 men well disciplin'd and in order; *Darius* met him with ten times the number, but they consisted of many Nations, not well united nor ordered as they ought to have been: This small Army found little resistance from that great number, and did little more than walk through them to Conquest. Methinks the ill Consequences which may be easily foreseen to arise from such plain demonstrations of a divided Nation, should prevail upon the most tender Conscience, not to be guilty of any thing that should bring such certain ruine upon his King, Countrey, and *Protestant* Religion, especially having liberty according to Law, to exercise his Religion

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Religion in his own way, in his own House, with his own Family, and an addition under five more. I have made it my business to preserve Dissenters from being prosecuted upon the Penal Laws, for not coming to Church, because I had a regard to tender Consciences; but since the King and Parliament have been so kind, to indulge them the Toleration I have mentioned, I cannot but esteem it rather Humour than Conscience, when they will yet offend against the Law by these publick Conventicles, which are so destructive to the Peace and Safety of the Kingdom, and are not suffered in any Countreys or Kingdoms that I know of. I cannot tell what to say more to you upon this Matter; but if I had the Tongue of Men and Angels, I would make use of it to perswade and adjure you for God's sake and your own, to lay aside these publick Conventicles, and keep to your own Houses, and serve God there in your own way. These publick Separations, I must confess, I take to be one Cause, and that a great one, of our present Troubles; and if you Gentlemen of the Bench and Grand Jury be of that opinion, I hope we shall kindly agree together in the remedy of this Evil. The Law of Nature which I have recommended to you, teacheth us to unite and live sociably together, and to do those things which may contribute to Self-preservation.

Gentlemen, The next thing which I am to recommend unto you, is the consideration of Juries, I mean, Grand Juries: I shall desire the Statute of the 3^d. of Henry the 8th. for the regulating those Juries, may be read.

The Clerk of the Peace did read it.

The Act that Justices may return Impannels for the King by their discretions.

Whereas great extortions and oppressions be, and have been within the more party of all the Countreys and Shires within this Realm of England, by the subtilty and untrue demeanour of Sheriffs, and their Ministers, committed and done unto many persons in great number of the Kings Subjects, by mean and making and returning at every Sessions holden within the said Counties and Shires, for the body of the Shire, in taking and putting in, and returning of names of such persons, as for the singular advantage, benefit, and gain of the said Sheriffs and their Ministers, will be wilfully forsworn and perjured, by the sinister labour of the said Sheriffs and their Ministers: by reason whereof many and divers substantial persons (the Kings true Subjects) contrary to good equity and rightwiseness, have divers times and many wrongfully been indicted of divers Murders, Felonies, and other Misbehaviour, by their covin and falshood, to the utter undoing of their Lives, loss of their Goods and their Lands; by reason whereof they and every of them, in avoiding the untrue trouble and vexation which to them might come and ensue by reason and occasion of the same false Indictments; and also sometime by labour of the said Sheriffs, divers great Felonies and Murders concealed, and by the said persons also by the said Sheriffs and their Ministers partially returned, not presented, be and have been compelled to make Fines and give rewards to the said Sheriffs and their Ministers: Wherefore be it enacted, ordained, and established by the King our Sovereign Lord, and by the assent of the Lords Spiritual and

Temporal, and the Commons of this present Parliament assembled, and by authority of the same, That all Pannels to be returned, which be not at the Suit of any party, that shall be made, and put in by every Sheriff and their Ministers afore any Justice of Goal-delivery, or Justice of Peace, whereof one to be of the Quorum, in their open Sessions to enquire for the King, shall be reformed by putting to, and taking out of the names of the persons which so be empanelled by every Sheriff and their Ministers, by discretion of the same Justice before whom such Pannels shall be returned: And that the same Justice and Justices shall command every Sheriff and their Ministers in his absence, to put other persons in the same Panel by their discretions: and that the same Pannels so reformed by the said Justices, be good and lawful: And that if any Sheriff, or any their Minister, at any time do not return the same Panel so reformed, that then every such Sheriff or Minister so offending, for every such offence shall forfeit xx. li. Sterling Money of England: the one half thereof to our Sovereign Lord the King or his Heirs, and the other half to him or them of his Subjects that will Sue for the same by Action of Debt at the Common Law, or Bil, or Complaint, where it shall fortune any such to fall and be: and that none Essoin ne Protection be allowed for the Defendant or Defendants in that Action or Plaint, nor that the said Defendant nor Defendants therein be admitted to wage their Law: And that the Kings Pardon shall be no bar against the party and parties in the same, that any such Action shall Sue.

Gentlemen, Juries are a Hedge about our Liberties and Lives, and the Wisdom of our Ancestors took great care they may be such as they ought to be, as you may see by this Statute. If it is not reasonable that the Lives and Fortunes of the People should be at the dispose of an under-Sheriff, certainly all men must think them more safe in the hands of Judges who are sworn, and are Learned in the Laws, and Justices of the Peace, who are men of Estates and Interests in their Countrey. An under-Sheriff, as the Statute expresseth, may be corrupted; how can then either the King or his Subjects depend upon the Justice of the Law, if the under-Sheriff shall have the absolute power to return Juries, and no room left to reform the Pannel after the Sheriff hath returned it? Certainly the Statute never intended this; but so it would be, if the Sheriffs refusal to alter it be a barr to the alteration of it: For what signifies the Penalty of 20 *l.* nothing at all: The Statute never could intend the Matter should rest there; for if so, it is useless, and the mischief recited in the Preamble remains. When a Sheriff hath returned a Pannel into the Court, the Court is then possessed of it, and the Hand to put out any returned, and put in other, is but a Circumstance in my opinion, and to be done by any the Court shall direct, if the Sheriff should refuse. I hope the Judges (who are Expositors of the Law) will consider this Point, which is so important both for the King and all his Subjects. I never heard that any Sheriff ever refused to alter the Pannel, when the Court directed it, until of late it hath been always done: I my self, with divers other Gentlemen, by the direction of the Judge, have gone off the Bench, to serve upon the Grand Jury, although we have not been returned, and our Names put into the Pannel in the Court. If it should not be in the power of a Court to do this, farewell the Security and Liberty of the People of *England*. But we in this County are yet in a worse condition than any other; we cannot say we have a Sheriff. The Bench last Sessions desired the Sheriffs company and assistance, to do that Right which belongs to that Office; they refused, and sent word by Mr Recorder, that they were obliged

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obliged to attend the Lord Mayor, and could not stir out of the City. If this be so, what a melancholy posture is this County in, where there are so many of the Nobility and Gentry, and where, for the most part, the King himself resides with his whole Court? If there should be a Tumult or Rebellion, who could raise the *Posse Comitatus* to suppress it? As sometime since there was in *Naples*, where the Persons, Houses and Estates of the Inhabitants, were subject to the Rage and Violence of the meanest of the People: Very ill Masters! I hope both you and we shall consider this; and since we can have no other relief, more closely apply our selves to those legal ways and means, which may prevent Riots and Tumults. We have a common Enemy, the *Papists*, which notwithstanding all the Care which hath been taken, we are informed, still swarm about this part of the Town. His Majesty hath been pleased to send Order to us about them, which we shall communicate to you; Mr. Clerk of the Peace, pray read the Orders of the King in Council, which were read, *viz.*

At the Council-Chamber *WHITEHALL*,
the 5th of *October*, 1681.

Present

His Highness Prince *Rupert*.
Lord Archbishop of *Canterbury*.
Lord Privy Seal.
Earl of *Bathe*.

Earl of *Craven*.
Viscount *Fauconberg*.
Lord Bishop of *London*.
Mr. Secretary *Jenkins*.

V *Hereas there was this day presented at the Board a List of the Names of several Tradesmen, who are Papists residing in the Parishes of St. Martins in the Fields, St. Giles in the Fields, St. Pauls Covent-Garden, and places adjacent, contrary to the Laws of this Kingdom, and his Majesties Proclamations for reinforcing the same. It was thereupon Ordered by their Lordships. That the said List be forthwith sent to his Majesties Justices of the Peace for the County of Middlesex, and the City and Liberties of Westminster; who at this present Sessions of Peace are to proceed against the said Popish Tradesmen according to Law, and to give the Board an account of what they shall do thereupon.*

John Nicholas.

At

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At the Court at *WHITE HALL*, this 11th day
of November, 1681.

By the Kings most excellent Majesty, and the Lords of his Majesties Honourable Privy-Council,

I *was this day Ordered by his Majesty in Council that the Justices of Peace of Middlesex, and the City and Liberties of Westminster, do give an account as soon as conveniently may be to this Board of their proceedings, in pursuance of an Order of Council heretofore transmitted to them, together with a List of several Papists, who inhabit and keep Shops, and exercise Trades hereabouts contrary to Law.*

Francis Gwyn.

Gentlemen, You see what Care the King and Council take of us, I hope we shall take some Care of our selves. The *Papists* are our known and common Enemy, and watch all opportunities to disturb the Peace of this Kingdom; pray be industrious to find them out, and present them, that they may be dealt with according to Law.

Gentlemen, At the Command of the Bench, I have (as well as I can) delivered you their Sence and Commands, and my own Opinion, who (God Almighty knows) have no other design than the Safety and Honour of the King, the Preservation of the true *Protestant* Religion, as it is established by Law in the Church of *England*, and the Peace and Prosperity of the Kingdom, in the preservation of their Liberties and Properties. I doubt not but you and all men will joyn with us to these Ends, which cannot be effected, unless these Conventicles, which add presumption to our Enemies, be laid aside, and the King, who by his Power is to preserve us, be with due Reverence obeyed, and kindly assisted by us.

Gentlemen of the Bench, I am but your Servant, and I hope I have spoke your Sence; to which the Court unanimously agreed.

Note, That the Justices observing a person in Court to write, sent for him to see what he writ, which was in Short-hand: They commanded him to transcribe in length; which being read to them, they finding it to be truly took, declared it their Sence, and ordered it to be printed and published, to the intent the whole Kingdom may see their Opinions.

Per Cur.

F I N I S.

Adderley.

